

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

CHARLES B. ZIMMERMAN,

Plaintiff,

v.

CSX TRANSPORTATION, INC.,

Defendant.

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Case No. 3:07-cv-449-WDS

ORDER

This matter is before the Court on the Second Amended Motion for Physical Exam filed by Defendant CSX Transportation Inc. pursuant to Fed. R. Civ. P. 35 on August 26, 2008 (Doc. 40). The Court previously granted a motion for physical exam (Doc. 36) and an amended motion for physical exam (Doc. 38). The instant motion indicates that the Plaintiff canceled and did not appear for the August 25, 2008, physical exam specified in the amended motion. Therefore, the Defendant requests an order from the Court specifying a second appointment date for Plaintiff to be examined by Dr. Rhoderick Peter Mirkin. The Plaintiff has not objected to the request for physical exam. As specified below, the motion is **GRANTED**.

Federal Rule of Civil Procedure 35(a) states that:

(1) The court where the action is pending may order a party whose mental or physical condition--including blood group--is in controversy to submit to a physical or mental examination by a suitably licensed or certified examiner.

(2) The order:

(A) may be made only on motion for good cause and on notice to all parties and the person to be examined; and

(B) must specify the time, place, manner, conditions, and scope of the examination, as well as the person or persons who will perform it.

Fed. R. Civ. P. 35(a) (effective Dec. 1, 2007).

In his complaint, Plaintiff alleges physical injury as a result of defendant's negligence, and has therefore raised his medical condition as an issue in the case. Thus, the Court finds good cause for a medical examination of the Plaintiff.

The Court hereby **ORDERS** Plaintiff, Charles B. Zimmerman to appear at a physical examination by Dr. Rhoderic Peter Mirkin, at his offices located at Tesson Ferry Spine & Orthopedic Center, 12122 Tesson Ferry Rd., Suite 100, St. Louis, Missouri, on **Monday, September 15, 2008, at 1:00 p.m.** Defendant shall forward to Plaintiff's counsel a copy of the doctor's report after the completion of the examination.

IT IS SO ORDERED.

DATED: September 2, 2008

s/ Donald G. Wilkerson
DONALD G. WILKERSON
United States Magistrate Judge